

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X  
UNITED STATES OF AMERICA :  
-----X

AFFIRMATION

- V - :  
-----X  
05 Cr. 1311 (PAC)

MARVIN MCFOY :  
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Defendant. :  
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I, **MARVIN MCFOY**, hereby affirm under penalties of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the defendant in the above captioned case. I make this affirmation in support of the instant motion to Dismiss the Indictment pursuant to the Sixth Amendment of the United States Constitution.

2. From 2002 until the present I have resided continuously at 1368 Sheridan Avenue, Bronx, New York apartment 5C.

3. During that period of time I have often traveled to Georgia, and I would reside with relatives at 2420 Kirkstone Drive, Buford, Georgia. I would never stay more than a few days. Prior to 2002, I lived and worked in Georgia for three years, living at 1120 Autumn Village Court, Duluth, Georgia.

4. During the time period of December, 2005, until the present, I have resided with my daughter who has attended school continuously at Our Lady of Mt. Carmel School in the Bronx.

5. As a result of the delay caused by the Governemnt, I have been unable to locate three witnesses who are material to my case. They are: Memuna Baptiste; Clement Quist; and Collins Baffour.

6. When I would travel to Georgia, I did not bring my

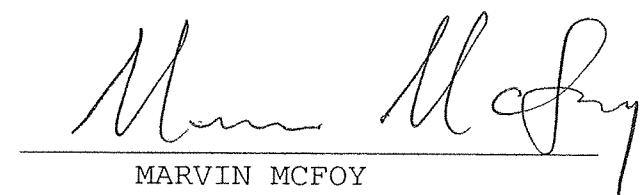
daughter and that is the reason why I never stayed more than a few days at any one time.

7. The front door to apartment 5C opens to a long hallway. The only room visible from the front door is the kitchen. The kitchen is too small to have any furniture. My apartment has been fully furnished during the entire period of my residence.

**WHEREFORE**, it is respectfully requested that this Court enter an order dismissing the indictment on the grounds that it was obtained in violation of my constitutional rights pursuant to the Sixth Amendment to the United States Constitution, or such other relief as the Court may deem just and proper.

I declare under penalty of perjury that the foregoing is true and accurate.

Dated: March 18, 2008  
New York, New York



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MARVIN MCFOY